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Case No. CV 11-2781 CAS (JCG)

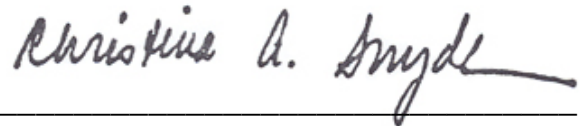
# ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE AND DENYING CERTIFICATE OF APPEALABILITY

There is nothing in Petitioner's Objections that would excuse Petitioner's failure to exhaust his state court remedies. As such, the Court finds that the Objections lack merit for the reasons set forth in the Report and Recommendation.

1. The Report and Recommendation is approved and adopted;
2. Judgment be entered denying the Petition and dismissing this action without prejudice; and
3. The Clerk serve copies of this Order on the parties.

1           Additionally, for the reasons stated in the Report and Recommendation, the  
2 Court finds that Petitioner has not shown that “jurists of reason would find it  
3 debatable whether”: (1) “the petition states a valid claim of the denial of a  
4 constitutional right”; and (2) “the district court was correct in its procedural  
5 ruling.” *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Thus, the Court  
6 declines to issue a certificate of appealability.

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8  
9 DATED: May 4, 2011

A handwritten signature in dark ink, reading "Christina A. Snyder", with a horizontal line underneath.

HON. CHRISTINA A. SNYDER  
UNITED STATES DISTRICT JUDGE